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David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

**In Re: Petition of ICG Telecom Group, Inc. for Arbitration with Bellsouth
Telecommunications, Inc. Pursuant to Section 252 of the
Telecommunications Act of 1996
Docket No. 99-00377**

Dear David:

Attached is late-filed Exhibit 5 in the above captioned proceeding. The exhibit is described in the transcript as follows:

... late-filed exhibit containing Mr. Varner's prefiled, subsequently withdrawn testimony in North Carolina after the BFR issue was settled between ICG and BellSouth.

Attached are pages 1 and 29-31 of Mr. Varner's pre-filed testimony in North Carolina.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker, attorney for ICG

HW/nl

Attachment

cc: Guy Hicks, attorney for BellSouth

FILE

BELLSOUTH TELECOMMUNICATIONS, INC.**DIRECT TESTIMONY OF ALPHONSO J. VARNER****BEFORE THE NORTH CAROLINA UTILITIES COMMISSION****DOCKET NO. P-582, Sub 6****JUNE 21, 1999**

1
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3
4
5
6
7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR
9 BUSINESS ADDRESS.

10
11 A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior
12 Director for State Regulatory for the nine-state BellSouth region. My business
13 address is 675 West Peachtree Street, Atlanta, Georgia 30375.

14
15 Q. PLEASE GIVE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
16 EXPERIENCE.

17
18 A. I graduated from Florida State University in 1972 with a Bachelor of
19 Engineering Science degree in systems design engineering. I immediately
20 joined Southern Bell in the division of revenues organization with the
21 responsibility for preparation of all Florida investment separations studies for
22 division of revenues and for reviewing interstate settlements.

23
24 Subsequently, I accepted an assignment in the rates and tariffs organization
25 with responsibilities for administering selected rates and tariffs including

1 *Issue 2: Should BellSouth be required to offset the amount paid by ICG in the Bona*
2 *Fide Request process for BellSouth's costs in developing a project plan when other*
3 *CLPs subsequently request and receive the same service at a reduced rate?*

4

5 Q. WHAT IS THE PURPOSE OF THE BONA FIDE REQUEST PROCESS WITH
6 CLPs?

7

8 A. Bona Fide Requests/New Business Requests (BFR/NBR) are used to allow CLPs
9 to request BellSouth to provide a new or modified network element,
10 interconnection option, or other service pursuant to the Act, or to provide a new or
11 a customized capability or function to meet a CLP's business needs. The
12 BFR/NBR process is intended to facilitate the two way exchange of information
13 between the requesting party and BellSouth, which is necessary for accurate
14 processing of requests in a consistent and timely fashion.

15

16 Q. DO CLPs MAKE USE OF THE BFR/NBR PROCESS?

17

18 A. Yes. During a nine-month period in 1998, BellSouth received and processed
19 2,663 BFR/NBR requests. Of those requests, however, only 88 were accepted,
20 approved, developed, and implemented by CLPs.

21

22 Q. HOW IS THE COST OF A BFR/NBR DETERMINED?

23

24 A. A special team evaluates the CLP's request for feasibility, consults with Product
25 Managers, Subject Matter Experts, and others, and develops an estimate of the

1 costs involved. Normally within 10 days after a BFR/NBR is received (maximum
2 of 25 days based on complexity), BellSouth notifies the CLP, in writing, if the
3 request can be met and what the cost estimate is. If the CLP accepts the offer,
4 then the CLP must pay for the time and development of the service or UNE.

5

6 Q. SHOULD BELLSOUTH BE REQUIRED TO RECOVER PART OF A CLP's
7 BFR/NBR COST FROM SUBSEQUENT COMPANIES USING THE SERVICE
8 OR UNE?

9

10 A. No. To administer such a process for all BFR/NBRs would be extremely labor
11 intensive and expensive and such a process is not required by the Act.

12

13 Q. IS IT DISCRIMINATORY FOR BELLSOUTH TO RECOVER THE BFR/NBR
14 COST FROM THE FIRST CLP TO REQUEST A NEW SERVICE OR UNE?

15

16 A. No. In most businesses, the first company to introduce or produce a new service
17 or product absorbs expenses for planning, developing and testing such a product
18 or service. Subsequently, other companies may make modifications or
19 improvements and produce the same thing at a lower price, for example,
20 computers or televisions. The benefit to the first requester is the ability to offer its
21 product in the marketplace before other providers can enter the market. This same
22 benefit applies on BFR/NBRs. BellSouth has no control over who submits a
23 BFR/NBR first or how many subsequent CLPs will request the same product or
24 service; therefore, BellSouth does not penalize or discriminate against the first
25 CLP to submit a BFR/NBR.

1 Q. DID ICG PROPOSE A SPECIFIC PLAN TO RECOVER COSTS
2 ASSOCIATED WITH A BFR? IF SO, PLEASE DESCRIBE THE PLAN.

3
4 A. No. ICG did not propose a plan. Any such plan would involve keeping track of
5 all BFR/NBRs presented by all CLPs, as well as subsequent purchasers of a
6 BFR/NBR service or UNE in order to recover a portion of the developmental cost
7 from the succeeding CLPs. This process would increase the cost of BFR/NBRs to
8 all users. In one possible scenario, BellSouth would not know what portion of the
9 BFR/NBR cost each subsequent purchasing company would pay, because
10 BellSouth would not know how many, if any, other CLPs would want that
11 particular service or UNE. Another possible scenario would involve keeping
12 track of all CLPs buying a certain BFR/NBR service and reimbursing each one
13 equally every time another CLP purchases the service. This process would be
14 even more administratively cumbersome and expensive than the first one. All of
15 this administrative effort is unnecessary. The first requester already receives the
16 same benefit that it would receive in any other marketplace.

17
18 Q. SHOULD BELLSOUTH PROPOSE AN ALTERNATIVE TO ALLOW A CLP
19 TO RECOVER PART OF THE BFR/NBR COSTS?

20
21 A. No. This is a process for which the CLP should be responsible. In some cases,
22 the CLP requesting the BFR/NBR service or UNE may be the only CLP to
23 ever purchase or use the service or UNE. Even if other CLPs do purchase the
24 new service or UNE at a later date, the initial CLP has already had the
25 advantage of implementing the service before anyone else.